

Remarks

Applicant sincerely appreciates Examiners Lopez and Fortuna granting the Applicant's representative a personal interview on April 4, 2002.

Claims 1-7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Orihara et al. ("Orihara").

Reconsideration of the rejection of Claim 1 is respectfully requested.

Claim 1 recites "a concave-curved guide track ... the guide track having a generatrix based on a uniform curve." Claim 1 also requires that the guide track be interrupted by at least one air jet. The guide track recited by Claim 1 is most clearly shown by Figure 3.

Orihara does show a guide track interrupted by an air jet. In the last Amendment, Applicant asserted that Orihara had a guide track formed by a series of steps. In the Response to Arguments in the last Action, the Examiner appears to acknowledge and agree with this argument. However, the Examiner asserts that Claim 1 is not limited to a curved surface formed without steps, and thus, the Examiner argues that Orihara still reads on Claim 1.

As discussed during the personal interview, Claim 1 requires that the guide track is formed by a generatrix based on a uniform curved. It is submitted that a guide track based on a uniform curved is limited to a curved surface formed without steps. Thus, Orihara does not meet all the limitations of Claim 1, and accordingly, cannot anticipate Claim 1.

As also discussed during the interview, it appears that, regardless of whether Claim 1 is patentable over Orihara, the rejection based on 35 U.S.C. § 102(e) should be withdrawn. If the Examiner subsequently decides that the proper ground of rejection is nonobviousness under 35 U.S.C. § 103, it is respectfully submitted that this rejection would constitute a new ground of rejection, and would necessitate a re-opening of prosecution and a non-final rejection. Alternatively, Applicant would also welcome a Notice of Allowance.

In any event, Applicant also submits that Claim 1 is nonobvious with respect to Orihara. Orihara neither teaches nor suggests modifying the guide track such that it is based on a uniform curve. As discussed in the present specification, the guide track recited by Claim 1 achieves an advantageous close-lying wall flow of tobacco from the Coanda effect. Thus, because Orihara fails to anticipate this advantage, if it cannot be argued that the uniform curve guide track is a mere “design choice” or an otherwise obvious modification. Accordingly, in addition to not being anticipated by Orihara, it is also submitted that Claim 1 is patentable over Orihara.

It is furthermore submitted that Claim 2 is not anticipated by Orihara. Claim 2 recites that the air jet extends continuously over the width of the guide track.

As discussed during the interview, the air jets in Orihara are not continuous over the width of the guide track. The air jets are defined by a series straightening plates/deflecting devices 36a, 40a, 42a, 44a, and 54a. Furthermore, the air jets only extend between the pair of sideboards 58 (col. 9, line 48-61). Thus, it is respectfully

submitted that the rejection of Claim 2 as being anticipated under 35 U.S.C. § 102(e) by Orihara should be withdrawn.

Furthermore, it is also submitted that Claim 2 is patentable over Orihara as well. The straightening plates and sideboards are required by Orihara to accelerate the tobacco in the direction of the belt conveyor 70, which is perpendicular to the guide track. (see, for example, Figure 7). Accordingly, Orihara actually teaches away from any proposed modification, and thus, it is clear that one skilled in the art would not modify Orihara with the air jets reunited by Claim 2.

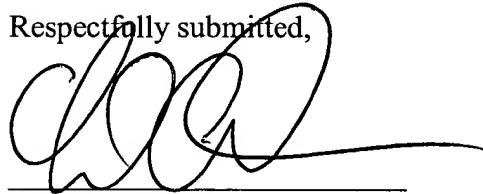
Claims 3-7 are each ultimately dependent on both Claims 1 and 2, and are patentable for the reasons discussed above.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Request for Reconsideration is respectfully requested.

Dated: April 9, 2002

Respectfully submitted,



Chad C. Anderson
Registration No. 44,505
Robert Kinberg
Registration No. 26,924
VENABLE
Suite 1000
1201 New York Avenue, N.W.
Washington, D.C. 20005-3917
Telephone: (202) 962-4800
Direct Dial: (202) 962-4738
Telefax: (202) 962-8300

CCA/r1
DC2-364974